

# EXHIBITS TABLE OF CONTENTS

		Page
EXHIBIT A	Minutes of March 26, 2007 in <i>People v. Arnell</i> , California Court Case Number S188356, reflecting Judge McAdam's denial of the petition for writ of coram nobis.....	A.1
EXHIBIT B	Guilty Plea on March 3, 2004, in <i>People v. Lantz Arnell</i> , California Case Number S188356.....	B.1
EXHIBIT C	Minutes of December 15, 2006 in <i>Randlett T. Lawrence v. Lantz E. Arnell</i> , California Court Case Number GIS20077.....	C.1

**EXHIBIT A**

☐ Central Division ☐ East County Division ☐ North County Division ☒ South County Division Waivers: ☐ Time  
 PEOPLE vs. **ARNELL LANTZ** STATUS **CR** ☐ BB ☐ CB (Y/N)  
 CASE # **S188356** PROS # **\*\*\*\*\*** DOB: **100446** BKG # **\*\*\*\*\*** CTS: **\*\*\*\*\*** days **\*\*\*\*\*** hrs.  
 DATE: **03-26-07** AT **09:00** DEPT # **6168** INTERPRETER: ☐ Spanish ☐ Sworn ☐ Oath on File  
 JUDGE/COMM/PRO-TEM **ROBERT TRENTACOSTA W. McAdams** FILED **1** REPORTER - CSR # **\*\*\*\*\***  
 CLERK **V. Benerio** TAPE # **\*\*\*\*\*** COUNTER # **1-954**

CHARGE(S) **PC242**
 FUTURE DATES **L. Balotro** **P-PRG** ☐ CONFIRMED ☐ VACATED **29-57 49**

 Attorney for the People (DDA / DCA) ☐ Attorney for the Defendant (PD / APD / PCC / Retained / Counseling) ☐  
☒ Defendant present by ☒ with ☐ without counsel ☒ in pro per ☐ via audio/video ☐ not produced in courtroom ☐ Defendant failed to appear

☒ 4 AMENDMENT WAIVER PREVIOUSLY ORDERED ☐ PROTECTIVE ORDER PURSUANT TO PC 136.2 PREVIOUSLY ISSUED  
☐ Case called for ☐ Ex-Parte Warrant ☐ Review ☐ Restitution ☐ OSC ☐ Evid. ☐ Prob. Revocation ☐ Sent. After Revoc. HEARING  
☐ FOR FAILURE TO ☐ ENROLL/COMPLETE: ☐ SUBMIT PROOF OF ☐ REPORT TO: ☐ REQUEST STAY/REASSIGNMENT TO:

☐ Assessment ☐ Pay (balance of) fine/restitution fine/fee \$ **125** per mo. due ☐ Civil Assessment \$ **\*\*\*\*\***  
☐ Report for **\*\*\*\*\*** days/hrs custody ☐ Balance of **\*\*\*\*\*** days PSWP ☐ hrs. Vol. Work ☐ as condition of probation ☐ in lieu of \$ **\*\*\*\*\*** fine  
☐ in lieu of **\*\*\*\*\*** days PSWP ☐ STAR ☐ MADD ☐ FCP ☐ MCP ☐ AIDS Test Results ☐ Insurance ☐ Drug Testing  
☐ AA/NA Mtgs ☐ per **\*\*\*\*\*** for **\*\*\*\*\*** # **\*\*\*\*\*** completion ☐ Anger Mgmt ☐ Parenting Ed ☐ Shoplifters Ed ☐ HIV/AIDS Ed  
☐ PRRF \$ **\*\*\*\*\*** suspended ☐
☐ Defendant advised of rights and ☐ admits ☐ denies violation of probation ☐ waives evidentiary hearing ☐ Court finds deft. in violation of probation  
☐ Defendant waives arraignment & time for judgment. PROBATION ☐ remains ☐ summarily ☐ formally REVOKED ☐ REINSTATED ☐ TERMINATED  
☒ CONTINUED ☒ same terms and conditions ☐ MODIFIED as follows ☐ EXTENDED/TOLLED to: ☐ new grant. see JUDGMENT  
☐ DENIED defendant sentenced as follows: ☐ Condition SATISFIED ☐ as to

☐ COUNSEL ☐ Court appoints counsel ☐ Public Defender ☐ for **\*\*\*\*\*** hearing  
☐ CUSTODY ☐ Serve **\*\*\*\*\*** days / hrs. in the custody of the Sheriff. **\*\*\*\*\*** days suspended **\*\*\*\*\*** days / hrs. CTS ( **\*\*\*\*\*** days actual **\*\*\*\*\*** days PC4019)  
☐ Serve FORTHWITH ☐ Work Release - call within 72 hours for reporting date ☐ Book & Release ☐ Report on **\*\*\*\*\*** at **\*\*\*\*\***  
☐ to Detention Facility: ☐ Central ☐ Las Colinas ☐ Vista ☐ Short Term Work Furlough ☐ A.I. Recom. ☐ Serve ☐ consecutive to ☐ concurrent with:  
☐ ☐ Consecutive weekends ☐ NO Early release ☐ NO Work Release ☐ NO County Parole ☐ NO ESP/Home Detention  
☐ CUSTODY ☐ IN LIEU OF ☐ \$ **\*\*\*\*\*** fine at \$50.00/\$ **\*\*\*\*\*** per day ☐ days PSWP  
☐ CUSTODY SATISFIED BY ☐ days PSWP ☐ days in **\*\*\*\*\*** residential rehabilitation program  
☐ days custody stayed pending ☐ successful completion of probation ☐ review hearing

☐ FINES/FEES ☐ Suspension lifted on the Probation Revocation Restitution Fine \$ **\*\*\*\*\***  
☐ Civil Assessment ☐ remains ☐ reduced to \$ **\*\*\*\*\*** ☐ balance suspended ☐ deleted ☐ release abstract to issue  
☐ PREVIOUS BALANCE ☐ PAY ☐ FORTHWITH ☐ BY **\*\*\*\*\***  
☐ days/hrs ☐ PSWP ☐ Volunteer Work reconverted to fine ☐ Balance at \$ **\*\*\*\*\*** per month beginning on **\*\*\*\*\***  
☐ Court administrative fee ☐ waived ☐ add to fine ☐ and on the **\*\*\*\*\*** of each month  
☐ Credit for **\*\*\*\*\*** days/hrs ☐ Custody ☐ Volunteer Work ☐ PSWP completed ☐ thereafter until paid in full  
☐ Stayed ☐ Suspended ☐ pending ☐ successful completion of probation ☐ REFER to:  
☐ Attorney Fee ☐ Indigent as to Attorney Fee ☐ Add to Fine ☐ Court Collections ☐ Credit Agency **\*\*\*\*\***  
☐ TOTAL DUE ☐ REPORT ☐ FORTHWITH ☐ BY **\*\*\*\*\***

\*The Court finds the defendant has the ability to repay the County of San Diego for costs of Court Appointed Attorney fees. This order is not a condition of probation.

☐ RESTITUTION ☐ Pay restitution to the victim ☐ of \$ **\*\*\*\*\*** at \$ **\*\*\*\*\*** per month beginning **\*\*\*\*\***  
☐ directly to the victim and show proof to the court ☐ by **\*\*\*\*\*** at Review Hrg ☐ through ☐ Court Collections ☐ Revenue & Recovery  
☐ REPORT ☐ FORTHWITH ☐ BY **\*\*\*\*\*** ☐ See stipulated restitution order ☐ Court retains jurisdiction re: restitution ☐ Submit to civil process.  
☐ PUBLIC SERVICE WORK PROGRAM (PSWP)/VOLUNTEER WORK ☐ Complete ☐ Re-assign:  
☐ PSWP ☐ Call within 72 hrs. to enroll (see reverse) ☐ Enroll by **\*\*\*\*\*** ☐ VOLUNTEER WORK ☐ at any non-profit organization  
☐ days as condition of probation ☐ at organization on Court approved list ☐ Other **\*\*\*\*\***  
☐ days in lieu of ☐ fines/fees \$ **\*\*\*\*\*** ☐ hours as condition of probation.  
☐ days credit for time served/completed ☐ additional **\*\*\*\*\*** hours in lieu of ☐ fines/fees \$ **\*\*\*\*\*** ☐ days custody/ PSWP  
☐ TOTAL days to be completed **\*\*\*\*\*** hours credit for time served/completed **\*\*\*\*\*** TOTAL hours to be completed

☐ One day per week authorized ☐ Out of county work authorized **\*\*\*\*\*** days custody for each day/8 hours missed  
☐ To run consecutive to / concurrent with ☐ Submit proof to the Court by **\*\*\*\*\*** ☐ days custody for each day/8 hours missed  
☐ ALCOHOL/DRUGS ☐ Abstain from alcohol ☐ Complete ☐ residential ☐ non-residential treatment program for **\*\*\*\*\*** days/mo. Proof by **\*\*\*\*\***  
☐ EDUCATION/TESTING ☐ RE-ASSIGN ☐ Attend while in custody ☐ Out of county authorized ☐ First Conviction Program ☐ 3 / 6 / 9 / 12 month class  
☐ Educational Component only ☐ Multiple Conviction Program (SB38) ☐ STAR ☐ MADD ☐ Safe Boating Course ☐ Anger Mgmt ☐ CCMS  
☐ Parenting Class ( **\*\*\*\*\*** sessions **\*\*\*\*\*** hours) ☐ 8 hr. Traffic/Repeat Offender Traffic School ☐ Shoplifting Course ☐ **\*\*\*\*\***  
☐ program/course ☐ through **\*\*\*\*\*** AA / NA / CA / MA meetings **\*\*\*\*\*** times per **\*\*\*\*\*** week **\*\*\*\*\*** month for **\*\*\*\*\*** days/ months ☐ as directed by **\*\*\*\*\***  
☐ Assessor ☐ HIV/AIDS Education ☐ Submit to ☐ Sheriff ordered to administer ☐ HIV/AIDS TEST pursuant to PC 136.2 **\*\*\*\*\*** ☐ Test Results ☐ **\*\*\*\*\***  
☐ ENROLLMENT ☐ PROGRESS ☐ COMPLETION ☐ by **\*\*\*\*\*** to the Court ☐ at REVIEW

☐ HEARING(S) ☐ Assessment Unit ☐ AND every 30 / 60 / **\*\*\*\*\*** days THEREAFTER **\*\*\*\*\***  
☐ DRIVERS LICENSE ☐ License is suspended by law and defendant may not drive until right to drive is reinstated ☐ defendant has liability  
☐ insurance as is required by law ☐ Defendant petitions the Court for a restricted license ☐ Court finds a critical need to drive  
☐ Petition ☐ granted ☐ denied ☐ License is ☐ restricted ☐ suspended for **\*\*\*\*\*** days ☐ months ☐ years ☐ Defendant may drive to and from ☐ work  
☐ school ☐ court ordered activities ☐ in course of employment ☐ Restriction consecutive to any DMV suspension/action ☐ Abstract to issue  
☐ Ignition Interlock Device ordered for **\*\*\*\*\*** mo. ☐ yrs. see addendum ☐ Not own or operate a vehicle without a functioning IID ☐ IID not ordered (F O J)  
☐ REFERRALS ☐ Report ☐ forthwith ☐ by **\*\*\*\*\*** to Assessment Unit ☐ Court Collections and comply with additional conditions of  
 probation imposed ☐ Revenue & Recovery ☐ Probation Department for Mini-Report re: **\*\*\*\*\***
☐ Time is waived ☐ DEFENDANT IS ORDERED TO APPEAR ON **\*\*\*\*\*** AT **\*\*\*\*\*** IN DEPT **\*\*\*\*\*** FOR:  
☐ Restitution ☐ Order to Show Cause ☐ Evidentiary Hearing ☐ Sentencing After Revocation ☐ Review regarding **\*\*\*\*\***  
☐ ☐ enrollment ☐ progress ☐ completion ☐ probation conditions noted above  
☐ Set ☐ with case(s): ☐ for revocation with this matter

 OTHER: ☐ Proof of **\*\*\*\*\*** ☐ shown ☐ filed  
*Defendant's petition for writ of Coram Nobis is denied by the Court.*
☐ CUSTODY STATUS ☐ Deft. REMANDED to custody of Sheriff, bail \$ **\*\*\*\*\*** ☐ WITHOUT BAIL ☐ as set ☐ increased ☐ reduced  
☒ Deft. RELEASED: ☐ on bail previously posted ☒ on probation ☐ after booking ☐ OR/SOR  
☐ to an authorized representative of **\*\*\*\*\*** on **\*\*\*\*\*** at **\*\*\*\*\***  
☐ Release conditions ☐ Attend **\*\*\*\*\*** AA/NA/CA/MA Mtgs per week and submit proof at each court hearing ☐ Abstain from alcohol  
☐ Previously ordered ☐ 4<sup>th</sup> WAIVER ☐ continues ☐ deleted ☐ PROTECTIVE ORDER ☐ continues ☐ deleted  
☐ WARRANT ☐ Bench ☐ Commit Warrant **\*\*\*\*\*** days ordered ☐ Bail set at \$ **\*\*\*\*\*** ☐ No Bail ☐ ISSUED ON **\*\*\*\*\***  
☐ Schedule for court ☐ Mandatory Appearance ☐ Night Service Auth ☐ Cash bail may be forfeited ☐ HOLD issuance of warrant to DATE SET ABOVE  
☐ Warrant previously ordered/issued ☐ remains outstanding ☐ rescinded ☐ RECALLED ON: **\*\*\*\*\***  
☐ BAIL STATUS Bail is ☐ exonerated ☐ forfeited ☐ Fine from bail, refund balance ☐ Declaration of non-collusion/reassumption of liability filed.  
☐ Bail forfeiture set aside, bond reinstated/exonerated upon payment of court cost \$ **\*\*\*\*\*** within 30 days ☐ cost waived  
☐ Bond # **\*\*\*\*\*** Bond \$ **\*\*\*\*\*** Bond Company **\*\*\*\*\***

 Attest a true copy **\*\*\*\*\*** Dated **\*\*\*\*\*** CLERK by **\*\*\*\*\*** Deputy Clerk **\*\*\*\*\***  
 Distribution by **\*\*\*\*\*** on **\*\*\*\*\*** to: Jail Deft Atty Pros Prob R&R Interpreter Assessment Other **\*\*\*\*\***

**EXHIBIT B**



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO		FOR COURT USE ONLY
PEOPLE vs. <u>ARNELL, LANTZ</u>	Defendant	
PLEA OF GUILTY/NO CONTEST - MISDEMEANOR		Case # <u>5188356</u>
		DA/CAJ #

INSTRUCTIONS: Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial each applicable item only if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

I, the defendant in the above-entitled case, personally and/or by my attorney, declare as follows:

1. Of those charges now filed against me in this case, I plead

GUILTY/NO CONTEST

to the following offenses and admit the enhancements, allegations, and prior convictions as follows:

COUNT	CHARGE	ENHANCEMENT/ALLEGATION
<u>ONE</u>	<u>P.C. 242 (BATTERY)</u>	

PRIORS: (LIST ALLEGATION SECTION, CONVICTION DATE, CASE NUMBER AND CHARGE)

N/A

2. I have not been induced to enter the above plea by any promise or representation of any kind, except: (State any agreement with the prosecutor.)

BALANCE OF COMPLAINT TO BE DISMISSED; \$350 FINE + ASSESSMENTS; COURT TO CONSIDER P.C. 51203.4 MOTION IN 18 MDS.

3. I am entering a plea freely and voluntarily, without threat or fear to me or anyone closely related to me.
4. I understand that a plea of No Contest is the same as a plea of Guilty for all purposes.
5. I am sober and my judgment is not impaired. I have not consumed any drug, alcohol or narcotic within the past 24 hours.

#### RIGHT TO A LAWYER

6. I understand that I have the Constitutional right to be represented by a lawyer at all stages of the proceedings including sentencing. I can hire my own lawyer or the Court will appoint a lawyer for me if I cannot afford one. I understand the dangers and disadvantages of representing myself and that it is usually unwise to represent myself.

- 6a. I understand that I have the right to be present in Court to enter my plea and for sentencing. I expressly authorize my lawyer to enter this plea on my behalf, in my absence. I expressly authorize my lawyer to appear for me at sentencing.

- 6b. I give up the right to an attorney and wish to represent myself.

#### CONSTITUTIONAL RIGHTS

I understand that as to all charges, allegations and prior convictions filed against me I also have the following constitutional rights, which I now give up to enter my plea of guilty/no contest:

7. I have the right to a speedy and public trial by jury. I now give up this right.
8. I have the right to confront and cross-examine all the witnesses against me. I now give up this right.

Defendant

ARNELL

Case Number

5188356

9. I have the right to **remain silent** (unless I choose to testify on my own behalf). I now give up this right. ☒ 9. ✓
10. I have the right to **present evidence in my behalf** and to have the court subpoena my witnesses at no cost to me. I now give up this right. ☒ 10. ✓

## CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

11. I understand the possible consequences of entering a plea of Guilty/No Contest include a maximum sentence of up to 6 months/year(s) in jail and fine(s) of up to \$2,000 plus additional consequences specified in any attached addendum, and any other reasonable conditions of probation, which could be for a maximum of 3/5 years. ☒ 11. ✓
12. I understand that in addition to any fine imposed, the law requires the Court to add penalty assessments which will substantially increase the amount I must pay. In addition, I understand that I may be ordered to make restitution to the victim, if the offense involved a victim, or to a restitution fund. I understand that I shall be ordered to pay a mandatory restitution fine (\$100 - \$1,000). ☒ 12. ✓
13. I understand that I may not be sentenced earlier than six (6) hours, nor later than five (5) days after my plea. I give up this right and agree to be sentenced at this time. ☒ 13. ✓
14. I understand that if I am not a U.S. citizen, this plea of Guilty/No Contest may result in my removal/deportation, exclusion from admission to the U.S. and denial of naturalization. Additionally, if this plea is to any offense listed on the back of this form, then I will be deported, excluded from admission to the U.S., and denied naturalization. ☒ 14. ✓
15. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation or parole in other cases and consecutive sentences. ☒ 15. ✓

## OTHER WAIVERS

16. (**Appeal rights**) I give up my right to appeal the following: 1) denial of my 1538.5 motion, 2) issues related to strikes priors (under PC sections 667(b)-(i) and 1170.2), and 3) any sentence stipulated herein. ☒ 16. ✓
17. (**Harvey Waiver**) The sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed, or stricken charges or allegations or cases when granting probation, ordering restitution, or imposing sentence. ☒ 17. ✓
18. (**Arbuckle Waiver**) I give up my right to be sentenced by the judge who accepts this plea. ☒ 18. ✓

## PLEAS

19. I now plead Guilty/No Contest and admit the charges, convictions, and violations of probation described in paragraph #1, above, because I am guilty. I admit that on the dates charged, I (Describe facts as to each charge and allegation)

I COMMITTED BATTERY UPON ANOTHER PERSON.

I further agree that a duly appointed Commissioner, Referee, or Temporary Judge may act as a Judge, accept this plea, impose sentence, and conduct any other post-conviction proceedings. I declare under penalty of perjury, under the laws of the State of California, that I have read, understood, and initialed each item above, and any attached addendum, and everything on the form and any attached addendum is true and correct.

Dated: X Feb 24, 2005

Defendant's Signature:

X [Signature]

Defendant's Address: 1516 GLORIETTA BLVD CORONADO, CA 92118  
 Street City State Zip

Defendant's Telephone No: (619) 435-4064

B.2



Defendant <b>ARNELL</b>	Case Number <b>5188356</b>
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**ATTORNEY'S STATEMENT**

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea, including any immigration consequences. I personally observed the defendant fill in and initial each item or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Dated: 2-24-05 JOHN A. FINLEY Attorney for Defendant (Signature)  
(Print Name)  
(Circle one: PD / APD / PCC / **RETAINED**)

**INTERPRETER'S STATEMENT (If Applicable)**

I, the interpreter in this proceeding, having been duly sworn, truly translated this form, and any attached addendum, and all the questions therein to the defendant in the \_\_\_\_\_ language. The defendant indicated understanding of the contents of the form and then initialed and signed the form and any attached addendum.

Dated: \_\_\_\_\_ (Print Name) Court Interpreter (Signature)

**PROSECUTOR'S STATEMENT**

The People of the State of California, plaintiff in the above-entitled criminal case, by and through its attorney concurs with the defendant's plea of Guilty/No Contest as set forth above.

Dated: 3/3/05 VICTOR W. CHAN Deputy District Attorney/Deputy City Attorney (Signature)  
(Print Name)

**COURT'S FINDING AND ORDER**

The Court, having questioned the defendant/defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: The defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for same. The Court accepts the defendant's plea and admissions, and the defendant is convicted thereby.

Dated: 3-3-05 YVONNE E. CAMPOS Judge/Commissioner/Referee of the Superior Court

**YVONNE E. CAMPOS**

CERTAIN OFFENSES DEFINED AS MISDEMEANORS UNDER STATE LAW MAY BE CONSIDERED "AGGRAVATED FELONIES" UNDER FEDERAL LAW. ANY CONVICTION OF A NON-CITIZEN FOR AN "AGGRAVATED FELONY" AS DEFINED UNDER 8 U.S.C. 1101(a)(43) WILL RESULT IN REMOVAL/DEPORTATION, EXCLUSION AND DENIAL OF NATURALIZATION.

"AGGRAVATED FELONIES" include, but are not limited to, the following crimes and any attempt or conspiracy to commit such crimes, even if the conviction is a misdemeanor under state law. (NOTE: Conviction of an aggravated felony is not the exclusive basis for which a defendant may or will be deported.)

1. ANY CRIME OF VIOLENCE\* (Includes any offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another. (18 U.S.C. §16).)
2. BURGLARY (Except a vehicle or vessel, unless used as a residence.) \*
3. CHILD PORNOGRAPHY OFFENSES
4. CONTROLLED SUBSTANCES:\*\*
  - a) MISDEMEANOR POSSESSION OF ANY CONTROLLED SUBSTANCE when the defendant has previously been convicted of a drug related offense.
  - b) POSSESSION FOR SALE OF CERTAIN CONTROLLED SUBSTANCES
  - c) SALE OF CERTAIN CONTROLLED SUBSTANCES
  - d) TRANSPORTATION OF CERTAIN CONTROLLED SUBSTANCES
  - e) MANUFACTURE/DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES
5. FORGERY \*
6. FRAUD (Where loss to victim or victims exceeds \$10,000.)
7. MONEY LAUNDERING (If amount over \$10,000.)
8. PERJURY/SUBORNATION of Perjury or Bribery of a Witness
9. PIMPING/PANDERING/OPERATING A PROSTITUTION BUSINESS
10. STATUTORY RAPE ("Unlawful Sexual Intercourse")
11. RECEIVING STOLEN PROPERTY \*
12. SEXUAL ABUSE OF A MINOR (Touching is not required, e.g.: Indecent Exposure.)
13. THEFT (Any type or amount)\*
14. TRAFFICKING IN VEHICLES WITH ALTERED VINS\*

\* Where the term imposed is at least one year, whether or not any or all of that term is stayed or suspended at the time of sentencing.

\*\*See 21 USC. 802. Note, however, federal and state statutes defining controlled substances are not identical.



**EXHIBIT C**

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CALENDAR NO. 16

NUMBER GIS20077	COMPLAINT DATE 04-06-05	HEARING DATE 12/15/06	HEARING TIME 08:35AM	DEPT 4	COURT USE ONLY <b>F I L E D</b> Clerk of the Superior Court <b>DEC 15 2006</b> By: M. TURNER
JUDGE/COMMISSIONER HON. WILLIAM S. CANNON		CLERK M. TURNER			
REPORTER ROSALIE MENEZES P.O. BOX 120128, SAN DIEGO, CA 92112-0128		CSR # 5373			
PLAINTIFF/PETITIONER RANDLETT T. LAWRENCE		DEFENDANT/RESPONDENT LANTZ E ARNELL			
ATTORNEY FOR PLAINTIFF/PETITIONER JACK LIEB (1,2)		ATTORNEY FOR DEFENDANT/RESPONDENT LANTZ E ARNELL			

1. PLAINTIFF MOTION FOR SANCTIONS
2. PLAINTIFF 4TH MOTION FOR TERMINATING SANCTIONS

THIS MATTER HAVING COME BEFORE THE COURT THIS DATE, THE COURT ORDERS:

- ☐ PRIOR TO CALENDAR CALL    ☐ OFF-CALENDAR    ☐ GRANTED    ☐ BONDS\$ \_\_\_\_\_  
☐ DENIED    ☐ WITH/WITHOUT PREJUDICE
- ☐ PRIOR TO CALENDAR CALL    ☐ CONT. TO \_\_\_\_\_ IN DEPT \_\_\_\_\_ AT \_\_\_\_\_  
☐ TRO    ☐ CONTINUED    ☐ VACATED  
☐ ALL PREVIOUS ORDERS REMAIN IN FULL FORCE AND EFFECT.
- ☒ ORAL ARGUMENT    TENTATIVE DATED DEC 15 2006    ☐ CONFIRMED    ☐ MODIFIED  
☐ DISPOSES OF ENTIRE ACTION    ☐ DOES NOT DISPOSE OF ENTIRE ACTION  
☐ PREVAILING PARTY TO PREPARE AND FILE FORMAL ORDER PURSUANT TO CRC 391.  
☐ OTHER

**Lawrence v. Arnell**

Case No. GIS 20077

1. Fourth Motion for Terminating Sanctions and Monetary Sanctions
2. Motion for Sanctions of \$3,360.00

1. Plaintiff's Fourth Motion for Terminating Sanctions and Monetary Sanctions is GRANTED. Defendant's Answer is stricken and plaintiff is directed to schedule a prove-up hearing. Plaintiff is awarded \$1,360.00 in sanctions payable by defendant for reasonable fees incurred in bringing this motion.

Terminating and monetary sanctions may be imposed against a party who refuses to obey an order compelling responses to a request for production of documents. (CCP §§ 2023.030(d) and 2031.310(e).) The court ordered defendant to provide verified responses to the request for production of documents by September 5, 2006. These document requests were originally sent to defendant's prior counsel in December 2005. On September 15 the court denied plaintiff's motion for terminating sanctions because defendant indicated he would fully comply with the production of all documents requested. Unfortunately, defendant's October 7 response still does not comply with the Code of Civil Procedure provisions regarding format or content. For example, the response that documents "don't exist" is insufficient. (CCP § 2031.230.) When asked to provide any documents of title for real estate defendant's response was, "Mr. Lieb was given instructions on how to obtain the information without violating anyone's constitutional right to privacy." There is no reasonable expectation of privacy regarding deeds; the reason for recording them is to put the world on notice of the party's interest. When asked to produce bank

Dated: 12/15/06

JUDGE/COMMISSIONER OF THE SUPERIOR COURT

C.1

GIS20077

12/15/2006

statements, tax returns, evidence of earnings, etc. defendant provided two documents have been so redacted that one cannot tell what institutions they are from, the date, and whether they even apply to defendant. Defendant provided what appears to be self-generated income statements that end in October rather than December as requested, and they show less than \$2,000.00 in annual income, which is improbable. Defendant's actions of telling plaintiff counsel that he could get the documents himself, producing documents that are so redacted as to be useless, and refusing to produce documents that almost certainly exist such as bank statements and tax returns are obstreperous and demonstrate an unwillingness to comply with his discovery obligations. The court has extended deadlines and accommodated defendant many times. Lesser sanctions which the court has imposed have not had their intended effect of persuading defendant to fully cooperate in responding to discovery.

2. Plaintiff's Motion for Sanctions of \$3,360.00 is DENIED.

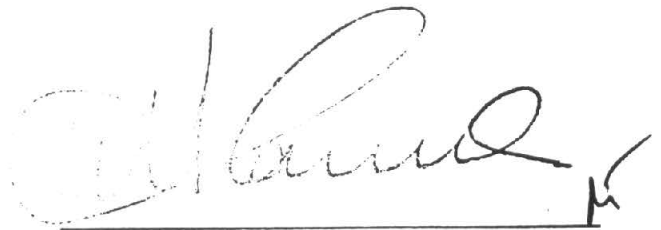
Plaintiff requests sanctions for having to oppose two frivolous summary judgment motions defendant filed. The motion is denied because the notice of motion states the motion is brought pursuant to CCP § 128.5. That section only applies to complaints filed on or before December 31, 1994. (CCP § 128.5(b)(1).) This case was filed in April 2005. Although the points and authorities mention CCP § 128.7, which is the applicable statute, the notice of motion did not put defendant on notice that sanctions would be sought pursuant to § 128.7 and consequently did not comport with due process.

These orders constitute the formal orders of the court.

As an aside, the court notes that on December 11 defendant filed a declaration in support of the second motion for summary judgment and motion for reconsideration with a purported hearing date of December 15. No such hearing was calendared and it was served by mail 5 days before the hearing which would be insufficient.

**IT IS SO ORDERED**

**Dated: 12/15/2006**



**Hon. WILLIAM S. CANNON**  
**Judge of the Superior Court**